

MINUTES
NATURAL RESOURCES COMMISSION

October 9-10, 2003

Radisson Hotel of Lansing
111 N. Grand Avenue
Lansing
-and-
Stevens T. Mason Building
530 W. Allegan
Lansing

PRESENT FOR THE COMMISSION

Jim Campbell
Keith Charters, Chairman
Paul Eisele, Vice Chairman
Bob Garner
John Madigan
Frank Wheatlake

COMMISSIONERS ABSENT

William Parfet

PRESENT FOR STAFF

K. L. Cool, Director
Jim Riley, Legal Counsel
George Burgoyne, Resource Management Deputy
Jim Ekdahl, Upper Peninsula Field Deputy
Department Staff

COMMITTEE OF THE WHOLE

Chairman Charters called the Committee of the Whole meeting of the Natural Resources Commission (NRC) to order at 3:00 p.m. on Thursday, October 9, 2003. The Committee of the Whole is a working session of the NRC.

Lake Erie Update

Gary Towns, Fisheries Division, Lake Erie Management Unit Supervisor, presented the updated proposal for walleye management in Lake Erie. He reviewed current Lake Erie walleye quota management as well as showing a map of where the walleye populations exist. Quota management provides long-term shared management across Lake Erie crossing State and national boundaries. He reviewed why there is a problem with walleye populations and production. During 2003, all States have worked toward developing regulations to curb harvest in their jurisdictional waters. The reductions have been widely advertised, and the groups and public have been very involved in the process.

Two options are being presented for consideration:

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Option A increases the walleye minimum size limit from 13 inches to 15 inches and reduces the daily bag limit from six to five. It also proposes to close Lake Erie off to harvest from April 1 to May 31. Biologists predict that 40 percent of the harvest will be reduced under this Option.

Option B increases the walleye minimum size limit from 13 inches to 15 inches and reduces the daily bag limit from six to four. It also proposes to close Lake Erie off to harvest from April 1 to the first Saturday in May. Biologists predict that 40 percent of the harvest will be reduced under this Option.

Both options include going from a 13 inch to a 15 inch minimum size limit on the Detroit River and will reduce the daily bag limit from six to five fish.

Commissioner Garner said that the options have been discussed with groups and the public and Option A would be preferred by the majority.

Natural Rivers Legislation Update

Dennis Knapp, Legislative Liaison, reported that House Bills 4641 and 4642, proposed revisions to the Natural Rivers Legislation, have passed the House of Representatives. The Bills allow local governments to remove designation after four years if a majority of affected local governmental units pass resolutions opposing the designation. The two tie-barred bills, which would apply to any Natural Rivers designated after January 1, 2003 (Pine and Upper Manistee Rivers) have been referred to the Senate Natural Resources and Environmental Affairs Committee. The Legislation will also place designation authority of Natural Rivers with the NRC instead of the Director and require the DNR to notify each landowner within the proposed Natural River area and provide each landowner an opportunity to receive regular updates on meetings related to the proposed designated areas. **Mr. Knapp** stated that the DNR believes this Legislation, if passed, would cripple the Natural Rivers designation laws.

Quality Stream Regulations Criteria

Todd Grischke, Fisheries Division, reviewed the history of quality stream regulations in Michigan. The current regulations were originally developed in the 1980s. Public Act 434 of 2002 mandated changing from 100 miles to 212 miles, where gear restrictions regulations can be placed on trout streams. DNR staff was required to develop criteria and present it to the NRC for discussion and feedback. Staff has been working with fishing organizations as well as internally, to develop these criteria. Mr. Grischke reviewed the flow chart for criteria for selection of trout streams with gear restriction regulations. He stated that there will be no change to the regulations as they are understood and that user groups fully supported the criteria.

Withdrawal of Bald Mountain Recreation Area – Oakland County

Deputy Burgoyne withdrew the Parks and Recreation Land Exchange, Bald Mountain Recreation Area – Oakland County, from action at this time.

Cormorants

Becky Humphries, Wildlife Division Chief, reported on the Double-crested Cormorant (DCCO) Final Rule as published in the Federal Register on October 8, 2003. The effective date of the rule is November 7, 2003 to April 30, 2009 and authorizes take at aquaculture facilities (Michigan not included). The rule authorizes State fish and wildlife agencies, Federally recognized Tribes, and State Directors of USDA and APHIS to prevent depredations on the public resources of fish,

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wildlife, plants, and their habitats by taking, without a permit, DCCOs found committing or about to commit, such depredation. Discussion ensued on this issue.

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The Committee of the Whole adjourned at 4:10 p.m.

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REGULAR MEETING OF THE NATURAL RESOURCES COMMISSION

Chairman Charters called the regular meeting of the Natural Resources Commission (NRC) to order at 4:35 p.m.

PUBLIC APPEARANCES

Michael Veine believes that closing Michigan's April and May Lake Erie walleye season will not significantly reduce the overall Lake Erie catch, but will shift the catch to Ohio waters and to the Maumee and Detroit Rivers. As an outdoor writer, he stated, this is not good for the resource. He believes that these regulations would be unenforceable due to border issues; he does not believe creel census numbers are accurate; and does not believe the walleye population is declining. He believes the census numbers are being utilized for political purposes and Ohio's regulations should be duplicated by Michigan. **Curtis Bacon, Acting Law Enforcement Chief**, does not believe these regulations will be difficult to enforce. **Kurt Newman, Fisheries Division**, said there needs to be a stable age distribution in the Lake to maintain the fishery.

Commissioner Campbell said the DNR must maintain the fishery to protect its reputation as a "world-class" fishery and for the health of the charter boat businesses. **Mr. Veine** asked that the April season be left open, but agreed with increasing the size limit to 15 inches. He opposes any fishing laws that are more stringent than those of Ohio.

Terry Picard, Chairman, Lake Erie/Lake St. Clair Fishery Advisory Council, said the Council's make-up is of a diverse group of people. He said the Council met in May, 2003 to review options relative to fishing regulations in Lake Erie. The compromise reached was Option A as proposed. After meeting with many organizations on this Option, all but one supported. The consensus was that a two month closure would be less detrimental than a four-fish daily bag limit. He believes that something drastic is occurring in the fishery and something needs to be done to protect the fishery. **Mr. Picard** supported Option A. **Commissioner Garner** thanked Mr. Picard for his efforts in this process and stated that if something isn't done soon, the proposed Options will look miniscule in comparison to what will have to be done to bring the fishery back. **Director Cool** questioned what **Mr. Picard** believed would be the impact of a loss of a month of fishing in Lake Erie. **Mr. Picard** responded that, personally, he will miss it, but that it is a necessary step. **Director Cool** said that Option B was created as an option for individuals who wish to fish in the months of April and May.

Rich Bowman, Trout Unlimited, noted he had not received comments on the coldwater regulations from members, so he believes they are acceptable. He reported that Trout Unlimited passed a resolution opposing the permitting of mining operations in sulfide formations. He recommended the NRC become educated on this process, if they weren't already. Relative to special gear restrictions, Trout Unlimited supports the current criteria.

Michael Bretsik questioned the process for bear and elk drawings. **Commissioner Garner** explained the drawing process and recommended that he talk to Wildlife Division staff for more information and to answer several questions he had on the issue.

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Elden Montross, and Rachel Shymkiw, commented on a potential realignment of Williams Lake Road, Pontiac Lake Recreation Area. His concern that one of the options would remove approximately 58 acres from the recreation area coming close to Pontiac Lake and wetland areas. He asked that the DNR not consider selling 58 acres to the county for purposes of relocating Williams Lake Road. (This issue was not on the agenda for consideration).

Ron Dubsy, Michigan Charter Boat Association, presented a proposal on new walleye regulations for 2004 in Lake Erie as follows: closed season for walleye fishing on Lake Erie in April, the first three weeks in May, all of August and September; raise the minimum size limit from 13 inches to 15 inches, and reduce the daily bag limit from six to five fish on Lake Erie; and raise the minimum size limit from 13 to 15 inches and reduce the daily bag limit from six to five fish on the Detroit River. This proposal was submitted by the Western Basin Charter Boat Association, Michigan Charter Boat Association, and various Lake Erie anglers and merchants.

Chairman Charters entered a letter from **Brenda Archambo, President, Sturgeon for Tomorrow in Cheboygan** yielding support for the Statewide Sturgeon Regulations.

Sam Washington, MUCC, reviewed a letter from him to Governor Jennifer Granholm, expressing concern regarding the use of DNR's restricted fund to address the budget crisis. The letter urges the Governor not to utilize DNR's restricted funds for anything other than their intended purpose. His letter states that, "In no case does the Governor, or the Departments of Natural Resources or Management and Budget have the authority to use these restricted funds to resolve budget deficits in areas not permitted under their authorizing acts."

Mr. Washington also stated he looks forward to the report by the Chronic Wasting Disease (CWD) Task Force which is to be presented to Governor Granholm by October 15. He stated he hopes the report will fall in line with thinking by the NRC and DNR in that it strives to keep CWD out of Michigan.

Mr. Washington stated that a report will be out soon relative to the DNR use of Kiosks. He asked that the DNR review the report prior to the DNR expanding its use of Kiosks and taking on additional investments.

Mr. Washington recommended that public meetings not be held in State office buildings where escorts are necessary from the lobby.

Rob Anderson, Michigan Farm Bureau, distributed the latest issue of Farm Bureau News which contains an insert to raise awareness to farmers on allowing hunting access and the permits that are available as tools for controlling deer on their property.

Chairman Charters asked if Michigan Farm Bureau attempts to discourage selling of deer baiting materials in the "no-baiting" area. No response was voiced.

Commissioner Wheatlake questioned why Michigan Farm Bureau was not supportive of Natural Rivers Designation. **Mr. Anderson** responded that Farm Bureau policy supports better reflection of property owner impacts in designated areas.

Robert Hamilton, Manager, City of Monroe, and the Monroe City Council, supported the Parks and Recreation and Boating Access Site Land Exchange at William C. Sterling State Park; Bolles Harbor Boating Access Site and Otter Creek Boating Access Site. **Mr. Hamilton** also read a letter from the city's attorney stating they had reviewed the City ordinance relating to weapons and explosives verifying the permitted use of shotguns and bows and arrows by hunters licensed by the Michigan DNR in pursuit of game animals which are in season on all properties within the City of Monroe situated east of I-75 and north of the River Raisin.

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Bill Braunlich, Vice President, Monroe County Historical Society, supported the Parks and Recreation and Boating Access Site Land Exchange at William C. Sterling State Park; Bolles Harbor Boating Access Site and Otter Creek Boating Access Site. He believes it enhances access to natural resources; has historical implications in preserving the battlefield; and believes it is in the best interest of citizens of Michigan.

Director Cool asked for assurance from the City of Monroe that, in generations to come, waterfowl will be managed by the DNR on the jointly owned wetland area. **Mr. Hamilton** responded that a covenant is on record that will allow hunting managed by the DNR for generations to come. **Director Cool** thanked all parties involved for their professional approach in working on the exchange. He introduced **Roger Homrich**, who has offered his property in exchange for State lands. **Director Cool** thanked him for making the exchange possible.

Captain Don Dietz, Westerbasin Charter Boat Association, supported Option A of the Lake Erie fishing regulations. He also expressed support for the proposal presented by Captain Dubsy earlier. Captain Dietz expressed concern that catch data presented by staff may not be accurate. He is concerned that fish caught in Ohio may be reported as caught in Michigan. He believes that fishing regulations should be on a lake-wide basis versus statewide.

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The Natural Resources Commission meeting adjourned at 6:01 p.m. on Thursday, October 9, 2003 and reconvened at 8:30 a.m. on Friday, October 10, 2003.

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DIRECTOR'S REPORTS

National Archery in the Schools Program

Director Cool reported the DNR intends to initiate a pilot of the National Archery in the Schools Program by the end of this year. **Doug Finley, Education and Outreach**, said the DNR must make nontraditional connections to include this program into the school activities. **Chairman Charters** believes this is an excellent program for Michigan to become involved in. **Dennis Knapp, Legislative Liaison**, said that there is Legislative interest in this program as well as interest by First Gentleman Dan Mulhern.

Lake Erie Walleye Regulations

Commissioner Campbell supports Option A.

Jim Dexter, Acting Chief, Fisheries Division, noted that these regulations are reviewed annually and staff could come back with recommended changes in a year. **Commissioner Eisele** wanted to ensure that it is understood that these regulations are not permanent and they can be reviewed and revised annually.

1836 TREATY ISSUES ON INLAND HUNTING AND FISHING

Jim Ekdahl, Upper Peninsula Field Deputy, reported that every inch of Michigan is covered by Indian treaties. In 1979, the Courts affirmed a treaty-reserved right for 1836 Treaty tribes to fish in Great Lakes waters under tribal authority. Left in question was inland hunting and fishing rights. The 1836 tribes have been issuing permits to hunt and fish that are not in compliance with state hunting and fishing regulations. Attorney General Michael Cox recently filed a motion in federal court requesting to initiate a court case that would establish whether treaty rights

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remain in effect in the inland treaty area, or if these rights were extinguished when the land was settled. The 1836 Treaty tribes have a deadline to accept or object to the motion to initiate this case in early November. If this goes to court, **Mr. Ekdahl** believes it will be a lengthy process and believes it will be one of the most significant treaty cases in recent years.

DIRECTOR'S ACTION

Director Cool intends to sign all Director's Action items on the agenda; excluding the Bald Mountain Recreation Area Parks and Recreation Land Exchange which was WITHDRAWN; AND including Option A of the Lake Erie Fishing Regulations.

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Commissioner Eisele made a motion, supported by Commissioner Madigan, for approval. Motion unanimously carried.

NRC POLICY COMMITTEE REPORTS

NRC Policy Committee on Land Management Meeting Report

The NRC Policy Committee on Land Management met on September 23, 2003 at the Waterloo Recreation Area. Present for the Committee were Commissioner Eisele (Committee Chair) and Commissioner Wheatlake. NRC Chairman Keith Charters and Commissioner Jim Campbell were also in attendance. Discussions focused on DNR landholding boundaries. The Committee intends to go through all DNR landholdings, to determine: boundaries, excess lands and needs for additional lands. This meeting focused on State Park lands. Commissioner Eisele commended staff for their hard work in assembling the information necessary to address these issues. Chairman Charters stated that the presentation made at the meeting by Parks and Recreation Bureau staff was excellent.

NRC Policy Committee on Finance and Administration

The NRC Policy Committee on Finance and Administration met on September 29, 2003 in Lansing. Commissioners Parfet (Committee Chair) and Wheatlake were present for the NRC. NRC Chairman Charters and Commissioner Garner were also in attendance. Topics of discussion included: investment updates; the audit universe; Payment-In-Lieu-of-Taxes (PILT); restricted funds; a presentation from Waterways Commissioners relative to gas tax; and the Federal audit. Commissioner Wheatlake noted (in Commission Parfet's absence) that Commissioner Parfet had met with Senator Sikkema to discuss Natural Rivers and the value of these designations.

NRC Policy Committee on Wildlife Issues

The NRC Policy Committee on Wildlife Issues met on October 9, 2003 at 1:00 p.m. in Lansing. Commissioners Garner (Committee Chair) and Campbell were present for the Committee. Commissioner Madigan also attended. Discussions were held on: cormorants and low water levels plaguing waterfowl; hunter orange; and quality deer management.

Upper Peninsula Habitat Committee

Commissioner Madigan stated he had met with groups to further discuss winter deer yard habitat and believes this is a very important issue. He will continue to meet with groups on this issue. He has received positive feedback from folks in the Upper Peninsula (UP) relative to activities of the Committee.

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NRC Policy Committee on Technology, Information, Marketing and Education (TIME)

The NRC Policy Committee on TIME met in October 9, 2003 at 11:00 a.m. in Lansing. Commissioner Campbell (Committee Chair), and Commissioner Garner attended on behalf of the NRC. Commissioner Campbell reported that the following issues were discussed: status of the LAPs program which is being widely used by 4th grade teachers in their curriculum; the audit on multiple identifications utilized in issuing licenses; and ways to amend inaccurate information on permit applications.

COMMISSIONER REPORTS

Commissioner Madigan reported that he has received positive feedback from UP citizens and groups on the activities of the Habitat Committee as well as the decision on motorized vehicles in State Parks. He attended a UP Whitetails meeting in Manistique where he won a wagon load of sugar beets.

Commissioner Campbell received phone calls and correspondence regarding the Island Lake Shooting Range, poaching and other DNR related issues. He also attended the Detroit River International Wildlife Refuge Dedication.

Commissioner Eisele testified at the Joint Legislative Hearing on forestry issues and reported that Masco had submitted comments to the Michigan Manufacturer's Association relative to forestry certification.

Commissioner Wheatlake complimented staff on their work in assembling information for presentation at the Land Management Committee meetings where state property boundaries are being discussed. He toured the Cheboygan to Gaylord Trail, Mullett Lake segment with Commissioner Parfet, Mindy Koch and staff and stated that a solution should be provided in December 2003. He spent time hunting, received correspondence and phone calls regarding DNR issues; and stated he would like to see more Commissioner involvement in the budget process.

Commissioner Garner participated in the "Ask the DNR" television show. He believes callers were calmer this year because hunting regulations have been made more consistent.

Chairman Charters attended the Land Management and Finance and Administration Committee meetings and ran a meeting, along with Wildlife Division staff, in Hillman to discuss bovine TB in deer. He thanked Commissioner Madigan again for his hospitality in Munising in September.

Upcoming Meetings

Chairman Charters stated that NRC Goals will be addressed during the Committee of the Whole meeting in December. In December, the Commission will also discuss establishing a Director Search Committee.

The NRC agreed that the November 2003 NRC meeting would be a one-day meeting on November 6.

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The meeting adjourned at 9:45 a.m.

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